

**REMARKS**

Claims 1-15 are presented for consideration on their merits. Independent claims 1, 12, 13 and 14 have been amended, and new independent claim 15 has been added to define applicant's invention in somewhat different terms.

The concluding clause in claim 1 now stresses that (safety) tab (60) is adapted to prevent at least the cutting edge of blade (10) from becoming exposed. Such feature distinguishes applicant's safety scalpel blade assembly from known scalpel blade assemblies, and represents a major advance over known scalpel blade assemblies.

Claims 2-5 depend from claim 1, and recite additional details of the safety tab. For example, dependent claim 2 notes that tab (60) includes head portion (61) and tail portion (62), as shown in FIGS. 9-12. The tail portion is positioned within slot (17) in guard (11).

Claims 6-11 depend directly from claim 2, and further recite the "anti-lift means," shown in FIGS. 16-25, which reduce the ability of the blade guard from lifting relative to the scalpel handle. For example, claim 7 call for an elongated rib (68), or rail, in the scalpel handle (65), and a corresponding groove (71), or slot, in the guard, and vice versa.

The concluding two clauses of claim 12 emphasize the anti-lift means that characterize applicant's safety scalpel assembly. Independent claim 13 stresses that peg (75) abuts against stop (76) in handle (73) when guard (72) is fully retracted, see FIGS. 22-25, and note page 14-23.

Independent claim 14 recites the structural relationships, shown in FIGS. 26-29, that provide a positive temporary locking of the guard, when in the forward and in the retracted positions. The arrangement includes a location means, such as locking bump 80 on the handle and recess, or location hole 82 on guard 83, and produces an audible click that assures the surgeon that the guard is fully extended, or completely retracted.

New claim 15 notes that the handle of the safety scalpel has a recess 97, on one side, a longitudinal rib (100) is located within the recess and in line with the finger on the scalpel that serves as a blade carrier, and the guard contains a longitudinal recess (or channel), as noted on page 16, lines 7-9.

The Examiner rejected claims 1-8 and 12 under 35 USC 103(a) as being unpatentable over Kiehne (WO 01/053212) in view of Gringer (U.S. Patent 6,085,607). Applicant submits that the rejection is in error, and should be withdrawn. The Kiehne published international application is cited on page 2, lines 24-26, of the present application, as filed, and is distinguished in the following paragraphs on pages 2 and 3 of the present application.

More specifically, column 9, lines 6-37 of Gringer, as well as FIG. 5, describe a snap off extension portion 74 of automatically retracting blade carrier 62 for a utility knife. However in Gringer, the blade already extends from the housing, and the function of extension piece 74 is to allow the blade to be fully extended when the extension piece is snapped off. In contrast, applicant's device, as reflected in amended claim 1, makes it abundantly clear that the tab portion, which can be removed, functions to prevent the cutting edge of the blade from becoming exposed. Thus, in essence, Gringer expressly "teaches away" from any type of snap-off, or removable, portion that prevents exposure of the blade.

The international application to Kiehne does not disclose, or suggest, a tab that prevents the cutting edge of the surgical blade from becoming exposed. Abidin et al. does not remedy the shortcomings of Gringer and/or Kiehne. Thus, independent claim 1, and dependent claims 2-11, clearly distinguish over known surgical scalpels, and are patentable in content.

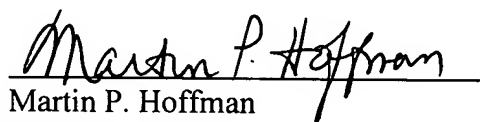
Turning to the rejection of claim 12, as unpatentable over Kiehne and Gringer, applicant has carefully reviewed column 6, lines 39-45, of Gringer, which discusses "blade retention projections 56" and "guides 58" for supporting the razor blade. The blade carriers 22, 24, in turn, are supported by carrier guides 20 and support platforms 28 through its range of movement within housing 2. No mention, however, appears in Gringer of "anti-lift means" for preventing the blade guard from lifting relative to the scalpel handle, as recited in claim 12 of the present application.

Claims 13, 14 and 15 recite unique structured relationships found in applicant's device that are absent from Kiehne and Abidin et al.

In summary, for the several reasons set forth above, applicant's surgical scalpel with its retractable guard, as expressed in claims 1-15, of record, represents a significant advance, worthy of patent recognition, over known surgical scalpels with anti-stick capabilities of far lesser quality. Prompt, and favorable, consideration of the present amendment is clearly in order.

Additionally, Australian application 2003258377, filed September 10, 2003, matured into an Australian patent on December 21, 2006; a copy of the Australian patent is enclosed. The text of the Australian patent conforms to the text of the international application PCT/AU2003/001187, which was published on April 2, 2004, under Publication Number WO 2004/026251 A1. While the Australian application and the international application share a common specification, claims 1-16, as allowed, and appearing on pages 18-20, are indicated to be the claims found in Australian Patent 200325877, accepted on December 21, 2006. The claims in the Australian patent approximate, in scope, the claims of record in the pending U.S. application.

Respectfully submitted,

  
Martin P. Hoffman  
Reg. No. 22,261

Hoffman, Wasson & Gitler, P.C.  
2461 South Clark Street  
Suite 522  
Arlington, Virginia 22202  
703.415.0100

June 10, 2008

**(12) STANDARD PATENT**  
**(19) AUSTRALIAN PATENT OFFICE**

(11) Application No. **AU 2003258377 B2**

(54) Title  
**Surgical scalpel with retractable guard**

(51) International Patent Classification(s)  
**A61B 17/3211** (2006.01) **A61B 17/32** (2006.01)

(21) Application No: **2003258377** (22) Date of Filing: **2003.09.10**

(87) WIPO No: **WO04/026151**

(30) Priority Data

(31) Number	(32) Date	(33) Country
<b>2003903812</b>	<b>2003.07.22</b>	<b>AU</b>
<b>2002951534</b>	<b>2002.09.20</b>	<b>AU</b>

(43) Publication Date: **2004.04.08**

(43) Publication Journal Date: **2004.05.20**

(44) Accepted Journal Date: **2006.12.21**

(71) Applicant(s)  
**Occupational & Medical Innovations Ltd**

(72) Inventor(s)  
**Kiehne, Bruce Leigh**

(74) Agent / Attorney  
**Cullen & Co, Level 26 239 George Street, Brisbane, QLD, 4000**

(56) Related Art  
**US 6058607**  
**WO 2001/074257**  
**EP 555196**  
**US 5868771**  
**US 3905101**  
**WO 2001/005312**

(12) INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(19) World Intellectual Property  
Organization  
International Bureau



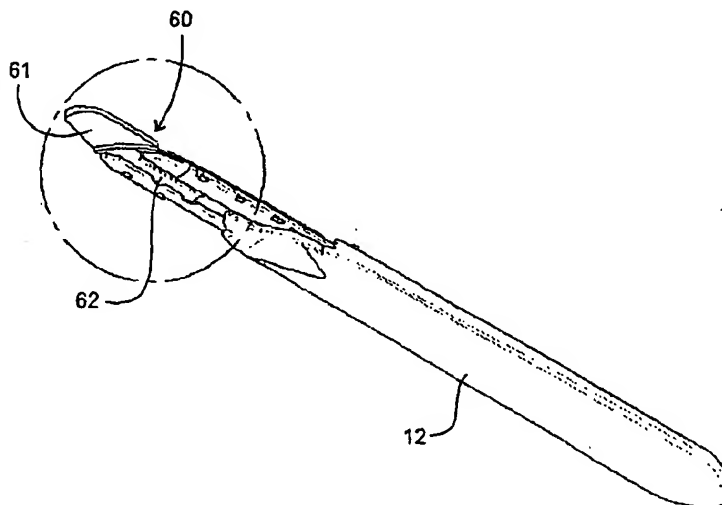
(43) International Publication Date  
1 April 2004 (01.04.2004)

PCT

(10) International Publication Number  
**WO 2004/026151 A1**

- (51) International Patent Classification<sup>7</sup>: **A61B 17/32** (74) Agent: CULLEN & CO.; Level 26, 239 George Street, Brisbane, Queensland 4000 (AU).
- (21) International Application Number: PCT/AU2003/001187 (81) Designated States (*national*): AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NO, NZ, OM, PH, PL, PT, RO, RU, SC, SD, SE, SG, SI, SK, SL, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW.
- (22) International Filing Date: 10 September 2003 (10.09.2003)
- (25) Filing Language: English
- (26) Publication Language: English
- (30) Priority Data:  
2002951534 20 September 2002 (20.09.2002) AU  
2003903812 22 July 2003 (22.07.2003) AU
- (84) Designated States (*regional*): ARIPO patent (GH, GM, KE, LS, MW, MZ, SD, SL, SZ, TZ, UG, ZM, ZW), Eurasian patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European patent (AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, GB, GR, HU, IE, IT, LU, MC, NL, PT, RO, SE, SI, SK, TR), OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GQ, GW, ML, MR, NE, SN, TD, TG).
- (71) Applicant (*for all designated States except US*): OC-CUPATIONAL & MEDICAL INNOVATIONS LTD [AU/AU]; Unit 1, 12 Booran Drive, Slacks Creek, Queensland 4127 (AU).
- (72) Inventor; and
- (75) Inventor/Applicant (*for US only*): KIEHNE, Bruce, Leigh [AU/AU]; 1 Belinda Court, Springwood, Queensland 4127 (AU).
- Published:  
— with international search report
- For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.*

(54) Title: SURGICAL SCALPEL WITH RETRACTABLE GUARD



(57) Abstract: A safety scalpel blade assembly adapted for attachment to a handle (12), the assembly comprising a scalpel blade (10) and guard (11) which extends at least about the cutting edge of the blade (10), the guard (11) having attachment means to lock the blade to the guard as the assembly is being attached to the handle and which releases the blade from the guard when the blade is attached to the blade carrier on the handle. Improvements include a removable safety tab (60) on the guard (11), means (68,71) to prevent the blade guard (11) lifting relative to the handle (12), a safety catch (75) to prevent excessive retraction of the guard (11) and location means (80,82) to locate the guard (11) in the extended and retracted positions.

WO 2004/026151 A1